IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF PUERTO RICO

Case No.:16-06911-ESL

In Re:

Chapter 13

MARIO MORALES APONTE LUZ ARISMILDA NIEVES OROZCO

Debtor(s)

TRUSTEE'S OBJECTION TO EXEMPTION(S)

TO THE HONORABLE COURT:

COMES NOW Alejandro Oliveras Rivera, Chapter 13 Trustee, through the undersigned attorney, and very respectfully states, alleges and prays as follows:

- 1. Pursuant to Federal Bankruptcy Rule 4003(b), the Trustee is hereto objecting to debtors' claim for exemptions as set forth below. In so objecting, the trustee has considered the value of the property subject of exemption as well as the liens on this property¹.
- 2. The meeting of creditors is schedule to be held on October 04, 2016.

TRUSTEE'S OBJECTION OVER CLAIM FOR EXEMPTION UNDER 11 USC \$522(d)(2)

3. The captioned Debtors listed in Schedule "B" the estate property that is described as follows:

2007 Chrysler 300. Value is \$9,938.00.

4. Debtors claimed exemption pursuant to \$522(d)(2) in the amount of \$3,958.00 over the above-mentioned property of the estate.

¹ The amount of the debts secured by the properties in question was obtained from the proof of claim, if one was filed, or, in its absence, from the scheduled amount.

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TRUSTEE'S OBJECTION TO EXEMPTION(S)
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5. As grounds for the foregoing objection, the Trustee submits that: As listed in schedule "B" the value of debtors' property is \$9,938.00. According with proof of claim 1-1 filed by First Bank, the property has a lien of \$7,445.92. Thus, debtors are not entitled to the above claimed amount since the available equity in the property is \$2,492.08. [\$9,938.00 - \$7,455.92 = \$2,492.08]. Consequently, trustee requests that debtors' claim of exemption under Section 522(d)(2) be allowed up to \$2,492.08 and disallowed the remaining amount claimed.

TRUSTEE'S OBJECTION OVER CLAIM FOR EXEMPTION UNDER 11 USC §522(d)(10)(E)

6. The captioned Debtors listed in Schedule "B" the estate property that is described as follows:

401K Retirement Plan. Valued at \$11,333.70.

- 7. Debtors claimed exemption pursuant to \$522(d)(10)(E) in the amount of \$11,333.70 over the above-mentioned property of the estate.
- 8. The estate property over which the exemption is claimed is not a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor. [§522(d)(10)(E)]. Therefore, debtors are not entitled to the claimed exemption.
- 9. Debtors are not members of the U.S. Armed Forces, the Coast Guard, the Public Health Service or the National Oceanic and Atmospheric Administration, as evidenced by the Certificate issued by the U.S. Department of Defense, copy of which is attached only to the original of this motion and movant's copy.

WHEREFORE the Trustee respectfully requests that an order be entered granting trustee's objection to exemption and consequently allow debtors' claim of exemption under § 522(d)(2) up to the amount of \$2,492.08 and disallowed as to the remaining amounts claimed. Also, the Trustee respectfully requests that debtor's claim of exemption under to \$522(d)(10)(E) over the 401K Retirement Plan be disallowed in its entirety.

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NOTICE: Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE: I hereby certify that on this same date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sends a notification of such filing to all parties in this case registered for receipt of notice by electronic mail. I further certify that the foregoing document has been served to the U.S. Trustee at ustregion21.hr.ecf@usdoj.gov and by depositing true and correct copies thereof in the United States Mail, postage prepaid, to debtor(s) at the address of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 3rd day of October 2016.

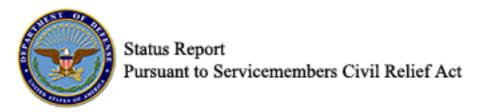
ALEJANDRO OLIVERAS RIVERA CHAPTER 13 TRUSTEE

P.O. Box 9024062 San Juan, PR 00902-4062 Tel. 977-3500 Fax 977-3521 aorecf@ch13sju.com

s/OSMARIE NAVARRO MARTINEZ

OSMARIE NAVARRO MARTINEZ
Staff Attorney
USDC-PR #222611
onavarro@ch13sju.com

CMC-WGV



Last Name: MORALES APONTE

First Name: MARIO

Middle Name:

Active Duty Status As Of: Oct-03-2016

Active Duty Start Date	On Active Duty On Active Active Duty End Date	Status	Service Component
NA NA	NA NA	No	NA NA
	This response reflects the individuals' active duty s	tatus based on the Active Duty Status Date	

Left Active Duty Within 367 Days of Active Duty Status Date				
Active Duty Start Date	Active Duty End Date	Status	Service Component	
NA	NA	No	NA	
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date				

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date				
Order Notification Start Date	Order Notification End Date	Status	Service Component	
NA	NA	No	NA	
This response reflects whether the individual or his/her unit has received early notification to report for active duty				

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavely-Dixon, Director

Department of Defense - Manpower Data Center

Mary M. Snavely-Dison

4800 Mark Center Drive, Suite 04E25

Arlington, VA 22350

Case:16-06911-ESL13 Doc#:13 Filed:10/03/16 Entered:10/03/16 11:28:01 Desc: Main
The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (PoD) that maintains the Defense Enrollment and Eligibility
Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ý 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via this URL: https://kb.defense.gov/PublicQueries/publicQuestions/FaqsAnswers.jsp?Subject=Locating Service Members or Getting a Mailing Addresss. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ý 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

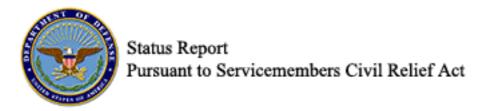
Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: GFWDXBA0V359680



Last Name: NIEVES OROZCO First Name: LUZ ARISMILDA

Middle Name:

Active Duty Status As Of: Oct-03-2016

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
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